

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/21/2021
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JULIAN ANTONIO LANTIGUA CABA,	:	
<i>individually and on behalf of others similarly</i>	:	
<i>situated,</i>	:	
	:	19-CV-7302 (VEC)
Plaintiff,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
ELEGANT LINEN OF NY INC (D/B/A	:	
BARGAIN STORE), HAISAM I. ABADI,	:	
and ASHI DOE,	:	
	:	
Defendants.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on December 17, 2019, the Court entered a default judgment against Defendant Elegant Linen of NY Inc., Dkt. 30;

WHEREAS in the same order, the Court deferred the determination of damages to after the conclusion of the proceedings against the remaining Defendants, *id.*;

WHEREAS on April 5, 2021, the Court ordered Plaintiff to submit a damages calculation with respect to Defendant Elegant Linen of NY Inc. by no later than April 16, 2021, Dkt. 53;

WHEREAS the Court reminded Plaintiff's counsel that a client affidavit must be sworn and accompanied by an interpreter's affidavit if Plaintiff is not literate in English, *id.*;

WHEREAS on April 20, 2021, four days after the deadline and only after a reminder from Chambers, Plaintiff filed a submission purportedly in response to the Court's Order, Dkt. 54; and

WHEREAS the submission is woefully inadequate: it failed to include an affidavit from Plaintiff swearing to the hours he worked and the wages he received; it failed to include an

affidavit or declaration from Plaintiff's counsel explaining the damages calculation and clearly stating the amount of the requested judgment; and it failed to include a proposed order;

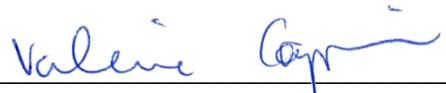
IT IS HEREBY ORDERED that by no later than **5:00 p.m. on Friday, April 23, 2021**, Plaintiff must file a new submission that cures these deficiencies. The submission must include:

1. An affidavit from Plaintiff swearing to the hours he worked and the wages he received. If Plaintiff is not literate in English, the affidavit must be accompanied by a second affidavit from the individual who read the affidavit to Plaintiff in his native language, swearing to the affiant's competence to do so and swearing that the affidavit had been fully and fairly interpreted.
2. An affidavit or declaration from Plaintiff's counsel that explains the damages calculation in detail and clarifies what Plaintiff is requesting. For example, Plaintiff's counsel must clarify whether Plaintiff is requesting damages for unpaid wages and overtime, which is unclear from the existing submission.
3. A proposed order. Plaintiff's counsel must comply with Rule 2(D) of the undersigned's Individual Practices in Civil Cases.

IT IS FURTHER ORDERED that if Plaintiff does not file anything by the Friday, April 23, 2021 deadline, or if Plaintiff files another deficient submission, the Court will both dismiss the case against Defendant Elegant Linen of NY Inc. for failure to prosecute and close this case.

SO ORDERED.

**Date: April 21, 2021
New York, NY**


VALERIE CAPRONI
United States District Judge